

Before the Board of Zoning Adjustment, D. C.

Application No. 11450, of National Permanent Federal Savings and Loan Association, pursuant to Section 8207.2 of the Zoning Regulations, for a special exception to establish a parking lot in a R-2 zone as provided by Section 3101.48, at premises 4201 Fessendon Street, N. W., Lots 26, 27, Square 1669.

HEARING DATE: September 19, 1973

EXECUTIVE SESSION: November 20, 1973

FINDINGS OF FACT:

1. The subject property is vacant and is in a R-2 zone.
2. The property is bounded by a 10 foot alley to the North, to the South is the park, and to the West is Wisconsin Avenue.
3. The parking lot will provide 33 additional spaces for use by the bank and adjacent business establishments. On Sundays the lot would be used by the Apostolic Church of St. Mary.
4. The lot will be open from 8:00 a.m. until 6:00 p.m. and will be managed by Doggett Parking Co. No outside or drive-in windows.
5. Applicant has requested a zoning change from R-2 to C-2-A of the subject lots (26 and 27). The Zoning Commission denied the request. Applicant will re-submit his application for a zone change. For this reason, applicant has requested a three year permit.
6. Egress and ingress will be from Wisconsin Avenue.
7. The Department of Highways and Traffic offered no objection for the use of this property as a parking lot.
8. Opposition felt that because of traffic conditions in the neighborhood at present, the use of the property as a parking lot would increase the traffic problem.

CONCLUSIONS OF LAW:

It is the conclusion of this Board that the proposed parking lot will increase the flow of traffic in this already congested area, and that the establishment of this parking lot will create a dangerous and otherwise objectionable traffic condition. The Board also concludes that the establishment of this parking lot will have an adverse affect upon the surrounding neighborhood.

ORDERED:

That the above application be DENIED.

VOTE: 3-2 (Messrs. Harps and Scrivener dissenting.)

ATTESTED By: _____

James E. Miller
JAMES E. MILLER
Secretary to the Board

FINAL DATE OF ORDER: JAN 07 1974

Before the Board of Zoning Adjustment, D. C.

Application No. 11450, of National Permanent Federal Savings and Loan Association, pursuant to Section 8207.2 of the Zoning Regulations, for a special exception to establish a parking lot in the R-3 zone as provided by Section 3101.48, at the premises 4201 Fessenden Street, N. W., Lots 26, 27, Square 1669.

HEARING DATE: September 19, 1973

EXECUTIVE SESSION: November 20, 1973

ZONING COMMISSION REVIEW ORDER: #86, March 21, 1974

EXECUTIVE SESSION: April 17, 1974

OPINION:

At an executive meeting held on April 17, the Board considered Zoning Commission Order No. 86, which by its language, "vacates" the Order of the Board and "instructs the Board to issue an Order granting the application."

On motion made by Mr. Harps, seconded by Mr. McIntosh and carried 4-1 with Mr. Hatton dissenting, the Board accepted the Zoning Commission Order as "vacating" the Board's Order under 8204.5 of the regulations. However, it is the view of the majority members of the Board that under Section 8204.5 of the Zoning Regulations the Zoning Commission "may issue an order affirming, modifying, or vacating" an Order of the Board, but may not substitute its judgement for the Board's and decide an appeal or application which the D. C. Code empowers the Board alone to decide, and the Board so interprets the words "with instructions to the Board" as used in Section 8204.5 to require, in this case, re-advertising and rehearing.

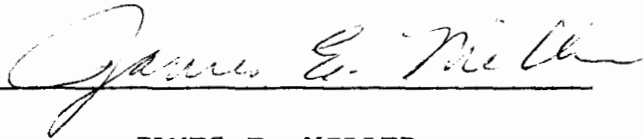
The Board therefore declines to issue an Order pursuant to the instructions contained in the Zoning Commission Order, and will schedule the case for re-advertisement and rehearing in accordance with the Statute and the Regulations by which the Board is bound.

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ORDERED: That the above case be RESCHEDULED and RE-ADVERTISED
for public hearing before the Board of Zoning
Adjustment.

BY ORDER OF THE D. C. BOARD OF ZONING ADJUSTMENT

ATTESTED By: _____



JAMES E. MILLER
Secretary to the Board

FINAL DATE OF ORDER:

APR 10 1974

Before the Board of Zoning Adjustment, D. C.

Application No. 11450 of National Permanent Federal Savings & Loan Association pursuant to Section 8207.2 of the Zoning Regulations for permission to establish a parking lot as provided by Section 3101.48 of the Regulations in the R-4 District at 4207 Fessenden Street, N. W., and 5008 42nd Street, N. W., Lots 26 & 27, Square 1669.

HEARING DATE: September 19, 1973, June 17, 1974
EXECUTIVE SESSION: June 25, 1974

PROCEDURAL POSTURE:

A. National Permanent Federal Savings and Loan Association filed Application No. 11450 with the Board of Zoning Adjustment on July 13, 1973, pursuant to Section 8207.2 of the Zoning Regulations, for a special exception in order to establish a parking lot in an R-2 Zone District, as provided by Section 3101.48 of the Zoning Regulations.

B. The Board of Zoning Adjustment conducted a Public Hearing on said application for a special exception on September 19, 1973.

C. After considering said application for a special exception in Executive Session on November 20, 1973, the Board issued an Order denying said application on January 7, 1974, with Messrs. Harps and Scrivener dissenting from the majority.

D. The Zoning Commission, pursuant to Section 8204.3 of the Zoning Regulations, issued Order No. 82 on January 17, 1974, staying the effect of said Board of Zoning Adjustment Order and on March 21, 1974, pursuant to Section 8204.5 of the Zoning Regulations, the Zoning Commission, issued Order No. 86 vacating the Board's Order and instructing the Board to grant approval of BZA Application No. 11450 based upon Findings of Fact, Conclusions of Law, Decision and Conditions contained in Zoning Commission Order No. 86.

E. In Executive Session on April 17, 1974, the Board voted 4-1 (Mr. Hatton dissenting), not to follow the instructions of the Zoning Commission Order No. 86, but rehear BZA Application No. 11450 in accordance with the Zoning Regulations.

FINDINGS OF FACT:

1. The subject site is located at 4201 Fessenden Street, N. W., Lots 26 and 27 in Square 1669. The site is bounded by a ten foot alley to the north, Fessenden Street, N. W., on the south, 42nd Street, N. W. on the east and an existing bituminous parking lot and a bank building owned by the applicant, all in lot 36 on the west. The proposed parking lot is located in its entirety within 200 feet of an existing commercial district and is contiguous with such commercial district.

2. The subject site has been cleared of all structures and is presently vacant.

3. The subject site was in an R-2 Zone District, until the issuance of Zoning Commission Emergency Order No. 75 of October 18, 1973, which rezoned the site to R-5-B for a period of no more than 120 days. The site has been rezoned R-4 by Zoning Commission Order No. 87. Said special exception is still required to allow a parking lot in the R-4 Zone District.

4. The proposed parking lot will provide 33 additional parking spaces for use by the applicant bank and adjacent retail business establishments. On Sundays the lot would be available for use by worshipers at the Apostolic Church of St. Marry, located immediately east of the site across 42nd Street, N. W.

5. The requested lot would be open from 8:00 a.m. to 6:00 p.m. and will be managed by the Doggett Parking Company. There will be no outside or drive-in windows located on the site.

6. The applicant proposes to provide egress and ingress to the proposed parking lot from an existing driveway from Wisconsin Avenue, through the existing parking lot to the west of the site in lot 36.

7. The District of Columbia Department of Highways and Traffic offered no objection to the proposed parking lot, providing that the sole driveway access be via Fessenden Street, because it was less heavily traveled than Wisconsin Avenue and would be preferable.

8. At least three financial institutions in the immediate neighborhood of the applicant's site have been allowed to use off-street parking lots by the Board (See Applications 11176, 10962 and Appeal 6325).

9. Opposition to the proposed parking lot from residents of the immediate neighborhood felt that due to the present traffic conditions in the neighborhood, the use of the site as a parking lot would increase the traffic problem by:

a. Increasing the amount of traffic in the neighborhood thereby creating a safety hazard to children who live and play in the neighborhood.

b. Destroying the amenities of the residential neighborhood where the proposed lot is to be located because of the residents having to look at a paved surface, automobiles, and brick wall.

10. Two residents of the neighborhood testified and the Board finds that the proposed parking lot would benefit the neighborhood by eliminating the customers of the applicant to park on neighborhood streets.

11. A parish council member of St. Mary's Armenian Church, which is right across the street from the proposed parking lot testified and the Board finds that the proposed lot if approved would benefit the neighborhood by providing the church with adequate parking on Sundays.

12. The Chairman of the Parish Council of St. Mary's Armenian Church testified, and the Board finds that the proposed parking lot would enhance the view of the subject property and improve parking conditions in the neighborhood.

13. The Board finds that the subject property at present has no improvements located thereon.

14. A neighborhood resident testified, and the Board finds that the subject lot is used as a depository for trash and that if used as a parking lot, proper maintenance of the lot would remove this objectionable use of the subject property.

CONCLUSIONS OF LAW:

Based upon the above Findings, the Board is of the opinion that the proposed parking lot can benefit the adjacent neighborhood by decreasing the amount of on street parking on Wisconsin Avenue and adjacent residential streets. One of the basic factors leading to traffic congestion of this area is on street parking and double parking by those persons patronizing retail business establishments located on both sides of Wisconsin Avenue. In providing accessible off-street parking the applicant helps contribute to the solution of the traffic and parking problems presently confronting the retail and residential inhabitants of this area.

The Board has considered the objections and support of the persons residing in the neighborhood of the proposed lot and based on the facts presented by residents' in support of the lot and the facts presented by the applicant. The Board concludes that, the use of the parking lot is reasonably necessary and convenient to the neighborhood and is so located and all facilities thereof are so designed that they are not likely to become objectionable to adjoining or nearby property because of noise, traffic or other objectionable conditions.

ORDERED:

That the above application be CONDITIONALLY GRANTED for five years on condition that:

a. No Certificate of Occupancy be issued until landscaping plans have been submitted and a wall has been erected to screen the residential property abutting the subject parking lot.

b. That applicant shall close the existing driveway off of Wisconsin Avenue, N. W., into the parking area located in Lot 36, so as to lessen traffic congestion on Wisconsin Avenue.

c. The only access and egress to all parking facilities owned by applicant and adjacent to its present building be located off of Fessenden Street, N. W.

d. The applicant shall construct and maintain a suitable buffer surrounding said parking lot along the alley on the north, 42nd Street, N. W., on the east and Fessenden Street, N. W., on the south (except for the appropriate driveway entrance off of Fessenden Street).

e. Permit shall be issued for a period of five years, but shall be subject to renewal in the discretion of the Board upon the filing of a new appeal in the manner prescribed by the Zoning Regulations.

f. All areas devoted to driveways, access laned and parking areas shall be maintained with a paving of material forming an all-weather impervious surface.

g. An eight (8) inch coping shall be erected and maintained along each side of all driveways to protect the public space.

h. Bumper stops shall be erected and maintained for the protection of all adjoining buildings.

i. No vehicle or any part thereof shall be permitted to project over any lot or building line or on or over the public space.

j. Chains shall be provided to close the lot at night.

k. All parts of the lot shall be kept free of refuse or debris and shall be paved or landscaped. Landscaping shall be maintained in a healthy growing condition and in a neat and orderly appearance.

l. No other use shall be conducted from or upon the premises and no structure other than an attendant's shelter shall be erected or used upon the premises unless such use or structures are otherwise permitted in the zoning district in which the parking lot is located.


m. Any lighting used to illuminate the parking lot or its accessory building shall be so arranged that all direct rays of such lighting are confined to the surface of the parking lot.

VOTE:

4-1 (Lilla Burt Cummings dissenting.)

BY ORDER OF THE D. C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


JAMES E. MILLER,
Secretary to the Board

FINAL DATE OF ORDER:

7/29/74

*THAT THE ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS ONLY UNLESS APPLICATION FOR A BUILDING AND/OR OCCUPANCY PERMIT IS FILED WITH THE DEPARTMENT OF ECONOMIC DEVELOPMENT WITHIN A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER.

Before the Board of Zoning Adjustment, D. C.

Application No. 11450, of National Permanent Federal Savings & Loan Association, pursuant to Section 8207.2 of the Zoning Regulations, for a special exception to establish a parking lot in the R-3 zone as provided by Section 3101.48, at 4201 Fessenden Street, N. W., Lots 26, 27, Square 1669.

HEARING DATE: September 19, 1973 and June 17, 1974

EXECUTIVE SESSION: June 25, 1974 and August 27, 1974

ORDERED: That the Motion for Stay and Reconsideration of Order No. 11450 filed in the above case fails for lack of four (4) affirmative votes.

ATTESTED BY: James E. Miller
JAMES E. MILLER,
Secretary to the Board

FINAL DATE OF ORDER: OCT 01 1974

Before the Board of Zoning Adjustment, D. C.

Application No. 11450, of National Permanent Federal Savings & Loan Association, pursuant to Section 8207.2 of the Zoning Regulations, for a special exception to establish a parking lot in the R-3 zone as provided by Section 3101.48, at 4201 Fessenden Street, N. W., Lots 26, 27, Square 1669.

HEARING DATE: September 19, 1973 and June 17, 1974

EXECUTIVE SESSION: June 25, 1974 and August 27, 1974, October 25, 1974

ORDERED: That the opposing parties motion for reconsideration, regarding the Board's approval of applicant's landscaping plan and screening wall, fails for the lack of four (4) affirmative votes.

BY ORDER OF D. C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY: James E. Miller
JAMES E. MILLER,
Secretary of the Board

FINAL DATE OF ORDER: **OCT 31 1974**